

STATE OF MICHIGAN

IN THE 36TH DISTRICT COURT FOR THE CITY OF DETROIT

PEOPLE OF THE STATE OF MICHIGAN,

vs.

RECORDER'S NO.88-11275

36TH DIST. NO. 88-66787

DWIGHT HASSAD RASHAD and
SHEILA BUFKIN,

Defendants.

PROCEEDINGS HAD and TESTIMONY TAKEN upon
the PRELIMINARY EXAMINATION in the above-entitled cause, before
the HONORABLE RUFUS GRIFFIN, JR., Judge of the 36th District
Court, Detroit, Wayne County, Michigan, on Monday, September
19, 1988, at or about the hour of 3:18 o'clock p.m.

APPEARANCES:

ROBERT HEALY
Assistant Prosecuting Attorney

On behalf of the People.

MILTON HENRY
Attorney-at-Law

On behalf of the Defendants,
Dwight Hassad Rashad and
Sheila Bufkin.

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THE RECORDER'S COURT
ASSIGNMENT DIVISION

Willie S. Cockrell, Jr., R0290
Official Court Reporter

Motion
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1 Detroit, Michigan

2 Monday, September 19, 1988

3 3:18 o'clock p.m.

4 - - -

5 THE CLERK: Case No. 88-66787, People of
6 the State of Michigan versus defendant number one, Dwight
7 Rashad. He's charged with Possession With Intent to Deliver
8 Cocaine. Defendant number two, Sheila Bufkin, she's charged
9 with Possession With Intent to Deliver Cocaine.

10 MR. HENRY: Milton Henry for the defendants,
11 your Honor.

12 MR. HEALY: Robert Healy for the People.
13 Do I understand we have one lawyer for both defendants?

14 MR. HENRY: That is correct.

15 MR. HEALY: Is that proper?

16 MR. HENRY: Under the circumstances of
17 our defense I would say at this point it is, yes.

18 THE COURT: Let's just make the record
19 so that whatever is proper or improper the record will
20 reflect that at least.

21 Mr. Henry, is there any possibility there
22 will be some kind of conflict in their testimony that will
23 preclude you representing both of them at this time?

24 MR. HENRY: Not at this examination.
25 And we discussed that previously. Even at the arraignment

1 the question was raised.

2 THE COURT: All right. If Mr. Rashad
3 and Ms. Bufkin have no problem I certainly have no problem.

4 MR. HENRY: If there are more than one
5 witness, I certainly move, your Honor, they be sequestered.

6 A R T H U R M C N A M A R A ,
7 was called as a witness by the People, and having been
8 first duly sworn by the Court Clerk, was examined and
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. HEALY:

12 Q Your name and your rank and duty assignment as of September
13 7, 1988, that's a Wednesday?

14 A Arthur McNamara. I'm a sergeant for the Detroit Police
15 Department assigned to the Narcotics Division.

16 Q Were you the crew chief in respect to the execution of
17 a search warrant at 20219 Greydale on that date?

18 A Yes, I was.

19 Q And can you tell the Court approximately what time of day
20 it was that the search warrant was executed?

21 A 10:00 p.m.

22 Q After you gained entry into the house, where did you go
23 first, please?

24 A Went into a living room like a dining room area where both
25 of these persons were brought to.

1 Q Both of these persons being the two defendants here?

2 A Yes, Mr. Dwight Rashad, sitting there with the white, black
3 and grey shirt.

4 Q I don't think there is any real dispute as to which one
5 is which.

6 A And Sheila Bufkin, sitting there in the brown dress.

7 Q Anybody else in the house besides those two at the time
8 of execution of the warrant?

9 A Just a baby.

10 Q Okay. Did you have occasion to call for the TSS dope dog?

11 A Yes, he was with us at the time and I called him into the
12 house as soon as both of the persons were secured inside.

13 Q Did you go with the TSS officer and the dope dog through
14 the house?

15 A Yes.

16 Q Did that include going into the basement?

17 A Yes.

18 Q Was there any activity on the part of the dog that indicated
19 to you that there was some reason to search further in
20 the basement?

21 A The dog went directly under the steps where there is a
22 room that had a master lock on the door with a hasp and
23 he hit the bottom of the door with his nose and tried to
24 get into a crack that was there.

25 Q Okay. And when the dog reacted in that manner, what did

1 you do then, if anything?

2 A I pried the hasp and the lock off the door.

3 Q And when you pried the hasp and the lock off the door,
4 did you then look inside?

5 A Yes, I did.

6 Q And what did you find?

7 A I found approximately six kilos of cocaine and approximately
8 seven ounces of heroin.

9 Q And did you cause those to be put on lock seal folder?

10 A Yes, I did.

11 Q And what lock seal folder?

12 A I need that yellow sheet. Lock seal folder 260543.

13 Q Where was defendant Rashad when you first saw him in the
14 house?

15 A He was standing, like there is a rear den or T.V. room,
16 there was an addition put onto the house, he was standing
17 right in there in that area of the dining room table which
18 would have been connecting rooms. He was right almost
19 in the doorway.

20 Q All right. And where was defendant Bufkin when you first
21 saw her in the house?

22 A She was in that back addition and ordered to come forward
23 to where the dining room table was.

24 Q Is it safe to say you were not the police officer in the
25 house?

1 A I was not the first one, no.

2 Q Do you have a present recollection as to who came in the
3 house before you did?

4 A I know Officer Shannon and Officer Jerry Johnson were ahead
5 of me.

6 MR. HEALY: I would ask that defense enter
7 into the following stipulations, that the contents of lock
8 seal folder 260543 was analyzed by Steven Gyure of the
9 Chemical Analysis Unit and found to contain something well
10 in excess of 650 grams of cocaine.

11 MR. HENRY: We so stipulate.

12 THE COURT: Let the record reflect defense
13 counsel's stipulation to the chemical analysis of cocaine
14 for the purposes of examination only.

15 MR. HENRY: That's correct.

16 CROSS-EXAMINATION

17 BY MR. HENRY:

18 Q Officer, I also called you lieutenant. You are not lieutenant
19 yet, but you are Sgt. McNamara?

20 A Hopefully soon.

21 Q Okay. You described going down in the basement of this
22 home and finding underneath the stairway a compartment
23 area?

24 A Yes.

25 Q Could you describe that for us, please?

1 A Where the stairs come from the main floor to the basement
2 there is also an area underneath the steps. Underneath
3 the steps you would have to enter from a laundry room and
4 under the steps is partitioned off with a wall and a door
5 cut in the wood and there was a lock on the door with a
6 hasp.

7 Q How large would that door have been?

8 A I would say it's approximately five foot high.

9 Q Five foot high?

10 A Approximately.

11 Q And would it have been built into that area and had a lock
12 on it?

13 A Yes.

14 Q Did you have to look hard to find it?

15 A As soon as I opened the door I saw it and I closed the
16 door immediately.

17 Q As soon as you opened what door?

18 A The door I took the lock off.

19 Q Did you ever look to find the door that was under the stairway?

20 A No, that's in view. You walk into the room. You walk
21 into the laundry room, to your left would have been the
22 door, and you look and you see the lock and the door cut
23 into the wood.

24 Q The door was cut into the wood. What kind of door was
25 that?

1 A I would say it's approximately a 4 x 8 sheet of wood.
2 And someone probably with a circular saw cut a five foot
3 door out of there and made a walkway and put two inches
4 on and a hasp and placed it right back into the hole that
5 they cut.

6 Q This is an area that has been especially made out in the
7 paneling? The paneling would then have been cut in half
8 of the normal size and then hinges put on a part of that
9 and a lock put on it?

10 A Yeah, that's correct.

11 Q But to get into that area you would have to bend down and
12 you couldn't just walk in?

13 A No, to get into the area, to look at the door, I'm sorry --

14 Q To get through the door and into the inside?

15 A Under the stairs, yes.

16 Q You would have to bend down?

17 A To get inside, but with eyesight you could look straight
18 in.

19 Q It's not the sort of place that you would just walk in
20 and out of? It would be a secreted place?

21 A No, you could walk in and out of it if the lock wasn't
22 there.

23 Q You would have to bend down, wouldn't you, to get in it?
24 You said it was cut in half?

25 A I would say it's about five foot. You would have to bend

1 your head so you wouldn't bump your head.

2 Q To get in there?

3 A Yes.

4 Q What kind of lock was on there?

5 A Master lock.

6 Q What does that mean?

7 A That's the name "Master."

8 Q Master lock, is that like a padlock?

9 A Padlock.

10 Q Big padlock?

11 A I would say approximately an inch and a half high.

12 Q Inch and a half high?

13 A Approximately. I have it on evidence.

14 Q You are fortunate now we don't have the evidence or
15 unfortunately. It was a padlock?

16 A It was a Master padlock, silver with a blue ring around
17 the bottom.

18 Q And that would have had its own key, right?

19 A Yes.

20 MR. HENRY: That's all.

21 MR. HEALY: No further questions. Send
22 in Shannon.

23 S T E V E S H A N N O N ,

24 was called as a witness by the People, and having been
25 first duly sworn by the Court Clerk, was examined and

1 testified as follows:

2 DIRECT EXAMINATION

3 BY MR. HEALY:

4 Q Let me have you name, your rank, your duty assignment as
5 of September 7, 1988.

6 A Steve Shannon, Police Officer working for the City of Detroit,
7 currently assigned to the Narcotics Section.

8 Q Were you a part of McNamara's crew in the raid of 20219
9 Greydale at 2:00 o'clock in the evening more or less on
10 that date?

11 A Yes.

12 Q With respect to the entry team, did you have a role?

13 A Yes, I was assigned to shotgun.

14 Q Okay. And as shotgun, you are the first man through the
15 door?

16 A That's correct.

17 Q And in fact were you the first man through the door?

18 A Yes.

19 Q And when you went through the door, what room did you come
20 into first?

21 A Living room.

22 Q And did you see anybody as you went through the door into
23 the living room?

24 A Looking through the living room there is an archway into
25 a dining area. And in that dining area standing at a table

1 was an individual later identified to me as the defendant,
2 Dwight Rashad or Hassad.

3 Q Is he in the courtroom now?

4 A Yes. He's seated at counsel table with the white and black
5 pants, white shirt, black pants.

6 Q What was Rashad doing in the dining room other than standing,
7 if anything? What did you see him do?

8 A He had a black case in his hand which he discarded.

9 Q In what manner did he discard it?

10 A He gave it a flip and it slid across the table. It remained
11 on the table. He made an action as though he was going
12 to break from the table, but I told him to stop and he
13 did.

14 Q Okay.

15 A I had the shotgun pointed at him.

16 Q Did you secure him?

17 A Yes. That has a tendency to keep people in place.

18 Q Anybody else in the house that you saw at that time?

19 A Once he was detained and other officers physically detained
20 him, I proceeded to the back of the house. In the back
21 of the house was a female also holding a small child.
22 She was later identified to me as Sheila Bufkin.

23 Q Is she in this room?

24 A Yes, she's also seated at counsel table.

25 Q Let's talk about the briefcase for a minute. You said

1 black case. What kind of case was it?

2 A It's a black leather attache case similar to the case you
3 have on your table.

4 Q Did you open it?

5 A Yes, I did.

6 Q What was in it?

7 A There was a set of keys. There was a wallet with Mr. Rashad's
8 identification, picture identification and stuff in it.

9 There was what would be called tally sheets
10 as to amounts of money given to people, amounts of cocaine
11 tally sheets.

12 MR. HENRY: Your Honor, I object to that.

13 I object to that as being speculative. I doubt seriously
14 if these sheets contained in any briefcase showing amounts
15 of cocaine. I think he can testify to what he saw and
16 not speculate on what they represented. He's no expert.
17 He's a police officer with limited experience at that.

18 MR. HEALY: Indeed. Perhaps we ought
19 to explore that.

20 MR. HENRY: I think you ought to explore
21 it.

22 MR. HEALY: All right.

23 EXAMINATION

24 BY THE COURT:

25 Q You say you saw what now? You saw sheets and what?

1 A Tally sheets that indicated the amounts in dollars that
2 had been either put out or received.

3 Q How do you know that?

4 A There is a dollar sign and numbers.

5 Q How do you know that?

6 A There was dollar signs, decimal points.

7 Q How do you conclude that it represents all of that by what
8 you see?

9 MR. HEALY: He wants to know what experiene
10 you got.

11 THE COURT: I'm not asking about experience.
12 I'm not asking him about that at all. That's not at all
13 what I'm asking him. I'm asking him how does he know or
14 how does he conclude all of that based on what he saw.
15 The experience has nothing to do with that.

16 MR. HEALY: The experience has nothing
17 to do with foundational questions?

18 THE COURT: It has nothing to do with
19 him giving that answer.

20 MR. HEALY: I don't understand that.

21 Q (By the Court) Your answer was what?

22 A Excuse me, your Honor?

23 Q Your answer was what about the sheets?

24 A Could you repeat the question?

25 Q I'm not repeating anything. You answer the question.

1 If you don't answer the question, I'm striking all of your
2 testimony. I'm striking every word that you stated. You
3 can play games if you want to, but you don't play games
4 with me.

5 MR. HEALY: I would like to make a record.

6 THE COURT: You make a record.

7 MR. HEALY: Thank you. This witness has
8 endeavored to answer the questions that were put to him.
9 A challenge was made in respect to his expertise. The
10 normal way of responding to that is to go into the witness's
11 experience in the field. I endeavored to do so, the Court
12 told him then if you were not, that is to say the Court
13 was not interested in establishing his experience as a
14 matter of expertise, that you only wanted him to answer
15 the question.

16 THE COURT: All I want him to do is answer
17 the question. We will deal with his experience at a different
18 time.

19 MR. HEALY: When he asked you what the
20 question was you refused to repeat the question.

21 THE COURT: You don't understand the question?

22 THE WITNESS: No, sir, not at this time.

23 THE COURT: Give him the question again.

24 MR. HENRY: How do you know what these
25 entries on the so-called talley sheets represent or that

1 they represented cocaine and the amounts that were going
2 to be paid for cocaine, which was your testimony.

3 EXAMINATION (Continued)

4 BY THE COURT:

5 Q Now do you understand what the question is?

6 A Yes.

7 Q Well answer it.

8 A By the numbers that were written, okay, it indicated amounts
9 of money on the sheets. And there are in terms of numbers
10 and letters that indicate what was transpired on that sheet

11 Q What were the letters?

12 A "K".

13 Q Which you take to represent what?

14 A Kilo.

15 Q What else?

16 A That's it.

17 THE COURT: I'm going to sustain the objection.

18 DIRECT EXAMINATION (Continued)

19 BY MR. HEALY:

20 Q All right. Now among the items that you examined in the
21 briefcase, you said you found some items of identification
22 that related to the defendant Rashad, is that a fair statement?

23 A That's correct.

24 Q Did any of those items give an address?

25 A Yes.

1 Q Can you tell me if the address was that of 20219 Greydale?

2 A I don't recall if there was anything on the Greydale address
3 indicating that.

4 Q Do you remember if there were other addresses given in
5 respect to defendant Rashad?

6 A Yes.

7 Q But you don't remember seeing anything that had Greydale
8 on it?

9 A I don't recall anything on Greydale on it.

10 Q Now, with respect to the keys that you found in that attache
11 case, did you try those keys in any of the locks on Greydale
12 such as the front door?

13 A Yes, I tried the front door.

14 Q Did it work?

15 A Yes.

16 Q Did you try it on the Master lock? Withdrawn.

17 Q Can you tell me if you went down in the
18 basement of that house?

19 A Yes, I did.

20 Q Can you tell me if you saw an area underneath the stairs
21 in the basement of that house?

22 A Yes, I did.

23 Q Can you tell me if you found a padlock that relates to
24 the area underneath the stairs?

25 A Yes, I did.

1 Q Did you try any of the keys in that padlock?

2 A Yes, I did.

3 Q By keys, of course, I'm still talking about the ones from
4 the briefcase.

5 A That's correct.

6 Q Did any of those keys work?

7 A Yes, one did.

8 Q Okay. That is to say unlocked the padlock, is that a fair
9 statement?

10 A That's correct.

11 MR. HEALY: Cross-examine.

12 CROSS-EXAMINATION

13 BY MR. HENRY:

14 Q Sir, you went down in the basement and when you got down
15 there the door was open?

16 A Yes.

17 Q The padlock was on the floor?

18 A No.

19 Q But the padlock was not on the door, it had been stripped
20 off of the door?

21 A It wasn't on the floor.

22 Q Where was it?

23 A It was locked on the hasp part that held the door closed.

24 Q And why did you want to put the key in that padlock?

25 A To see if it worked.

1 Q Because you already had found inside something that you
2 suspected to be narcotics?

3 A That's true.

4 Q And your warrant did not give you authority to make any
5 exploratory search throughout the premises, did it? It
6 told you to search for narcotics?

7 A That's correct.

8 Q It didn't give you any right to go in and take keys and
9 try them in the various doors of the premises that you
10 were already in, did it?

11 A It certainly does.

12 Q Let me show you what purports to be the search warrant.

13 A I saw the search warrant.

14 Q Well, would you read for me what's in there that authorizes
15 you to take keys after you have found the drugs and then
16 try them out in a lock?

17 A It doesn't verbally say that.

18 Q It doesn't, does it?

19 A (No response.)

20 MR. HENRY: That's all.

21 MR. HEALY: No further questions. Send
22 in Johnson.

23 J E R R Y J O H N S O N ,

24 was called as a witness by the People, and having been
25 first duly sworn by the Court Clerk, was examined and

testified as follows:

DIRECT EXAMINATION

BY MR. HEALY:

Q Your name, your rank, your duty assignment as of September 7, 1988, please.

A Police Officer Jerry Johnson, currently assigned to the Narcotics Division.

Q Were you a part of the entry team that went into 20219 Greydale on that date in the execution of a search warrant?

A Yes, sir, I was.

Q Did you take custody of any of the people inside the house?

A Yes.

Q Who did you take custody of?

A The defendant, Sheila Bufkin.

MR. HEALY: Indicating the defendant, Sheila Bufkin.

Q (By Mr. Healy) When you were through with the search, did you convey Sheila Bufkin downtown?

A Yes.

Q Before you conveyed her downtown, did you use a Detroit Police Interrogation Sheet in order to get information from Sheila Bufkin?

A Yes, I did.

Q And did you also use a Detroit Police standard Constitutional Rights Certificate of Notification form?

1 A I did, yes.

2 Q Now, in respect to the Constitutional Rights Certificate
3 of Notification form, did you notify Ms. Bufkin of her
4 so-called Miranda rights by use of that form?

5 A Yes, sir.

6 Q Now, that same language, not exactly the same form, but
7 the same language also appears at the top of the interrogation
8 sheet, does it not?

9 A Yes.

10 Q And did you use that as well to inform Ms. Bufkin of her
11 rights?

12 A Yes, I did.

13 Q Did you have her sign both?

14 A Yes.

15 Q After she had signed both, did she make any requests of
16 you in respect to those rights?

17 A No.

18 Q You hesitated. Is there some doubt in your mind?

19 A I was just thinking.

20 Q Is your answer still the same? I don't mean to confuse
21 you.

22 A I understand.

23 Q Is it your testimony that she had no questions of you in
24 respect to her rights?

25 MR. HENRY: He didn't say that. He hasn't

1 answered. As a matter of fact, at least a minute has taken
2 place and he has been very thoughtful about answering that
3 question.

4 MR. HEALY: I beg your pardon. He did
5 answer it. And then I asked him if he had paused before
6 he made the answer and that's when we got into the second
7 part of it.

8 THE COURT: What is the question now?
9 The second question?

10 MR. HEALY: I asked him whether she had
11 asked any questions, made any requests of him following
12 his advising her of her rights.

13 THE COURT: And the original answer wass
14 no?

15 MR. HEALY: That's correct.

16 THE COURT: The second question was what?

17 MR. HEALY: Essentially the same. I said
18 he seemed to pause and I asked him if there were any doubts
19 in his mind about that.

20 THE COURT: And what is your answer?

21 THE WITNESS: No.

22 MR. HEALY: Okay.

23 Q (By Mr. Healy) Did you take the statement using the
24 interrogation sheet?

25 A Yes, I did.

1 Q And would it be on four pages?

2 A Yes.

3 MR. HEALY: Counsel, do you have a copy
4 of those four pages?

5 MR. HENRY: I object to any statement
6 made by Ms. Bufkin at this time and move for suppression
7 of it. People vs. Summers, 68 Mich App 571. I do have
8 a Memorandum of Law which I will give the Court on that.

9 There is no basis for making the arrest,
10 no probable cause, therefore, to take a statement from
11 her at that point. The mere fact she's present in the
12 premises is not a sufficient basis to arrest her, and the
13 arrest is illegal, therefore, the statement is illegal;
14 and the Summers case is clearly on that point. It does
15 deal with exactly the situation like this.

16 As a matter of fact, Summers was shown
17 to be the owner of the premises. Officers had executed
18 the search warrant. They found drugs in a secreted place
19 and they arrested Mr. Summers and then wanted to introduce
20 what they found on him into evidence.

21 The Court clearly said it couldn't be.
22 There is no probable cause. And I have a copy of the Summers
23 opinion with me and I have underlined some of them which
24 points out that in this situation where the drugs are found
25 in an out of the way place, the mere occupancy by the

1 defendant with anyone else in the dwelling in which it
2 is located, does not provide probable cause for the arrest
3 of the person. Therefore,,any statement that she made
4 under those circumstances is unlawful and cannot be received.

5 THE COURT: Did you want to go forward,
6 counsel?

7 MR. HEALY: Certainly. I would ask counsel
8 whether Summers deals with the fact of the Fifth Amendment
9 rights?

10 MR. HENRY: What?

11 MR. HEALY: The Fifth Amendment rights,
12 that's what we are talking about.

13 MR. HENRY: My brief is clear and I'm
14 relying on the Summers case. My brief is clear. You made
15 an illegal arrest of this young lady. No problem because
16 to arrest her you can't make a statement, take her down
17 to the station and have her make a statement and sign her
18 rights. Never been arrested before in her life. Pure
19 as the driven snow. Working in a bank. Never been arrested,
20 and you take her down there to the Police Station and then
21 want her to give a statement.

22 MR. HEALY: I didn't ask for a speech.
23 The search warrant names Sheila Bufkin as someone to be
24 searched.

25 MR. HENRY; Does that give them the right

1 to arrest her? They found nothing on her. She's got a
2 baby in her arms.

3 THE COURT: Let me see the search warrant.
4 Let me read what the search warrant indicates here. "The
5 Sheriff or any peace officer of said county, Police Officer
6 Steve Shannon, affiant, having subscribed and sworn to
7 an affidavit for a search warrant, and I having under oath
8 examined affiant, am satisfied that probable cause exists:

9 Therefore in the name of the People of
10 the State of Michigan, I command that you search the following
11 described place: The entire premises and all out-buildings
12 of single-family dwelling located at 20219 Greydale, Detroit,
13 Michigan. The house is the third house north of Trojan
14 on the west side of Greydale and has decorative Armour
15 Guard grates on the doors and windows. The persons of
16 Sheila Bufkin, a black female, her husband whose first
17 name is unknown, but his last name is also Bufkin; and
18 a black female whose first name is Melody and whose last
19 name is unknown.

20 And to seize, secure, tabulate and make
21 return according to law the following property and things:
22 All suspected controlled substances, all items used in
23 connection with the sales, manufacture, use, storage,
24 distribution, transportation, delivery or concealment of
25 controlled substances. All books, records and tally sheets

1 indicating sales of controlled substances. All pre-recorded
2 funds used to make purchases of controlled substances,
3 all monies and valuables derived from the sale of controlled
4 substances and any items obtained through the sale of
5 controlled substances. All firearms and items establishing
6 ownership, control, occupancy or possession of the above
7 described place.

8 The following facts are sworn to by the
9 affiant in support of the issuance of this warrant:

10 Affiant is a Detroit Police Officer assigned
11 to the Conspiracy Unit of the Narcotics Division.

12 Affiant's crew is using a source of
13 information hereinafter known as SOI, who has made four
14 controlled buys of cocaine for affiant's crew, and as a
15 result executed one search warrant resulting in one arrest
16 for Possession With Intent to Deliver, with other cases
17 still pending.

18 SOI has supplied good information about
19 narcotic trafficking. For example, last week SOI told
20 affiant of a black Lincoln limousine of a particular license
21 plate in which SOI has seen several kilograms of cocaine.
22 The plate came back to an address which affiant's crew
23 was already familiar. Indeed, affiant was watching that
24 address a year ago when a four-wheel drive truck from the
25 address literally chased the affiant's car away from the

1 scene.

2 During the last week, the crew has watched
3 the suspect address, seen the Lincoln in question as well
4 as another Lincoln similarly registered, followed the second
5 Lincoln, and observed a pattern of drop-offs. Affiant's
6 crew expects to take action in respect of these events.

7 In addition, SOI supplied information
8 on six other narcotic locations, and that information was
9 verified by information already in police files.

10 SOI also describes his/her personal
11 observations concerning 20219 Greydale. SOI reports that
12 the main operator is Sheila Bufkin's husband, but that
13 Sheila Bufkin and another black female, Melody are involved
14 in the moving of dope from the Greydale address.

15 SOI says that no one is allowed to come
16 to the address for pick-ups of cocaine and that Melody
17 does the delivering of quantities no smaller than an ounce
18 and as large as kilograms.

19 Last week SOI reports seeing several kilograms,
20 SOI couldn't get a count, and today is 9-7-88, SOI saw
21 more packages the same size on the premises."

22 Signed Steve Shannon, affiant. Page one
23 of two pages. Subscribed and sworn to before me and issued
24 under my hand, 7th day of September 1988, Magistrate, whatever
25 it says, 36th District Court.

1 "Affiant's crew had Melody pointed out
2 to them and followed her to a known dope location.

3 On 9-2-88, police surveillance of 20219
4 Greydale disclosed two men with guns who tried to get in
5 the Greydale address, but no one appeared to be home.
6 Because large quantities of cocaine are involved, one would
7 not expect a discernable pattern of traffic such as might
8 be found where retailing takes place. The cars at the
9 address are registered to Sheila Bufkin, but to another
10 address, and the utilities are paid by Sheila Bufkin.

11 Affiant's knowledge of the narcotic trade
12 indicates that weapons and/or explosive or incendiary devices
13 are commonly used in the connection therewith; that monies
14 or other assets derived from the trade are often found
15 at the sites of narcotic related search warrant executions;
16 and that records relating to narcotic transaction or hiding
17 of proceeds from such transactions are commonly kept in
18 the course of illegal drug trafficking, and likewise, are
19 frequently found at the sites of search warrant executions.

20 This is the Return to Search Warrant.

21 "I hereby certify and return that by virtue of the within
22 search warrant to me directed, I have searched for the
23 goods and chattels therein named at the place therein
24 described; and that I have such goods and chattels before
25 the Court described as follows: Approximately seven kilos

1 of powdered cocaine. (1) box containing assorted
2 paraphernalia. (1)NEC portable telephone, serial number
3 7T-110198. (1) Leather briefcase, black. (1) Ram Motorola
4 beeper, serial number 601129. (1) Ram beeper, serial number
5 304632. Miscellaneous pictures. (1) Padlock, Master.
6 \$530, narcotic proceeds. \$83. (1) Ohaus Scale. (1) Lincoln,
7 gray. It cites the number. (1) Nissan Pathfinder. It
8 doesn't cite the VIN number on that. Dated 12:15 a.m.,
9 7th day of September, 1988, 20219 Greydale, signed by
10 Municipal Police Officer Anna, whatever."

EXAMINATION

BY THE COURT:

12
13 Q Let me ask you this, Officer, did you arrest Ms. Bufkin?

14 A No, she was detained. I didn't arrest her, no.

15 Q When you say detained, does that mean she was free to go?

16 A No, she was placed in the central location where all prisoners
17 are situated on the raid.

18 Q At what point was she arrested, if she ever was?

19 A Cuffs were placed on her and we were about to leave.

20 Q Did you do that?

21 A No, I did not.

22 Q Were you present when it was done?

23 A I don't think so.

24 Q When did you take a statement from her?

25 A At the location at her home.

1 Q And you are telling me when you took the statement she
2 wasn't under arrest?

3 A I heard her mention that it wasn't her dope.

4 Q I'm not asking you what she mentioned. When you took the
5 statement from her, was she under arrest or not?

6 A Yes, sir, I suppose she was.

7 Q And what was she under arrest for?

8 A Violation of Controlled Substances Act.

9 Q Okay. Specifically?

10 A Possession of Cocaine.

11 Q Did you find any narcotics on her?

12 A No, I did not.

13 Q Did anybody find any narcotics on her?

14 A I don't think so, no.

15 Q Of all the narcotics that were found in the house, was
16 there any found that was other than in the basement in
17 this little cut-out little room, was any other narcotics
18 found anywhere else other than in that little room?

19 A I don't think so.

20 Q So all the narcotics that was gotten from that house came
21 from that basement room, whatever it was?

22 A I didn't retrieve it.

23 Q I'm not saying that you did retrieve it. But if you know,
24 was there any other narcotics found anywhere in the house?

25 A I really don't know. I can't say.

1 THE COURT: I would like to hear some
2 more argument as to why she can't be charged.

3 MR. HEALY: The issue before you now is
4 not why she's being charged, but whether the statement
5 she made is admissible here.

6 THE COURT: I want to hear argument about
7 that, counsel, if you don't mind.

8 MR. HEALY: I am more than happy to make
9 it.

10 THE COURT: Then why don't you start.

11 MR. HEALY: The reason why she is held
12 at that time is because she is one of two people in the
13 house where she was the possessor of the house. There
14 is evidence there that she is in possession of the house.
15 That she lives there; and there is something like 14 pounds
16 of cocaine found in the basement of it.

17 There is only one person in the house
18 which is the defendant Rashad, according to the testimony
19 so far. He has with him identification which does not
20 relate to that address but rather to other addresses, so
21 she is held because she is in the house. She lives in
22 the house. Got several kilos of cocaine in the house and
23 the house belongs to her.

24 Now possession need not be exclusive.
25 Control need not be exclusive. And the law cited by defense

1 here first of all is law that doesn't have to do with probable
2 cause to arrest. It has instead to do with what constitutes
3 proof beyond a reasonable doubt which is altogether different.

4 In order to buy the theory of defense,
5 you would have to say the police have no right to arrest
6 and interrogate those found on the premises of a house
7 in which 14 pounds of cocaine is found, and I think that's
8 silly. If that's the law, we might as well fold up shop
9 and quit.

10 MR. HENRY: Then get ready to quit because
11 that's the law. The case we cited I thought was clear
12 without any ability of being disputed. On page three of
13 my memorandum, the last words from the case of People vs.
14 Summers is, "Under those circumstances we must hold that
15 the police officers had no probable cause to arrest the
16 defendant for knowingly possessing the drugs found in the
17 basement of the home."

18 It's exactly the same thing here. They
19 had no probable cause. The fact she may have owned the
20 home, which again is something that is a question, but
21 even if she did, they had no probable cause to arrest her
22 because they found it in a secreted place in the home behind
23 a lock which she didn't have a key to. No indication she
24 had access to it. Nothing indicating she went there.
25 They didn't have probable cause to arrest her for the

1 possession of those drugs and knowingly possession of those
2 drugs.

3 That's not any weird principle of law.
4 The Summers case deals with the same thing. The drugs
5 they were trying to get this man on were drugs found in
6 his pocket after they arrested him. They arrested him
7 on the basis of presence of drugs alone, and they can't
8 do that. They can't take this young girl out of her house
9 on the basis of that. Nothing more. Just the mere fact
10 she's living there or may have the ownership of the house,
11 that's what Summers had, he had ownership of the house,
12 but there was no probable cause to make the arrest of Summers
13 and, therefore, the drugs they tried to prosecute him for,
14 found in his pockets on the indication of a search had
15 to be excluded.

16 Likewise her statement had to be excluded
17 because they have arrested her when there is no basis,
18 no probable cause to arrest her.

19 THE COURT: Then, therefore, the basis
20 for arresting the other defendant is based on the keys
21 that were found in the sactchel that he had or whatever?

22 MR. HENRY: That is correct. That is
23 within the Summers case too. If they had any other case,
24 unfortunately which is cited in the Richardson case, if
25 there was some other evidence that he exercised control

1 or had the right to exercise control such as evidenced
2 by a key and that sort of thing, then that becomes a different
3 situation. But it certainly doesn't apply to a person
4 where there is no evidence that they had the control.

5 Moreover a safe for example where there
6 is no showing a person has the combination of it or the
7 means of getting into this secreted place or that they
8 even knew it was there.

9 THE COURT: You are saying that the statement
10 she made should be suppressed for what reason?

11 MR. HENRY: For the reason it was made
12 at a time when she was illegally arrested. They illegally
13 arrested her. Even by their admission, okay, the statement
14 it shows on the front of it it was taken at Police Headquarters,
15 while the testimony of the officer is he took the statement
16 in the house. I don't know how they can get back and forth.
17 It says at, Headquarters of the Police Department." Even
18 so she was under arrest and he admitted that, and the arrest
19 was illegal because they had no basis. Now they want to
20 use that and have her make a statement, and on the basis
21 of that try to buttress their position and bring a case
22 against her.

23 THE COURT: I would like to hear some
24 discussion. Do you have other witnesses that can establish
25 her ownership of this house?

1 MR. HEALY: The ownership of the house
2 can be put in in two ways. One is through the statement
3 she makes herself, which is through this witness and through
4 other items that are seized from the house at the time.

5 THE COURT: Why don't we deal with those
6 other items that were seized.

7 MR. HEALY: Okay. We will have Johnson
8 step down and go out in the hallway and put McNamara back
9 on.

10 A R T H U R M c N A M A R A ,
11 was called as a witness by the People, and having been
12 first previously duly sworn by the Court Clerk, was examined
13 and testified further upon his oath as follows:

14 REDIRECT EXAMINATION

15 BY MR. HEALY:

16 Q Sgt. McNamara, first of all did you take steps to, before
17 the execution of this search warrant, to check with any
18 of the utilities in the City of Detroit to see who was
19 paying the utilities at that address?

20 A Yes.

21 Q And can you tell me which utility you checked?

22 A Water Department.

23 Q All right. And what information did you get back?

24 A Got the information that Sheila Bufkin was paying the bills,
25 and I got a phone number there for the address also.

1 Q Now, at the scene while you were in the process of executing
2 the search warrant, did you find any proof of residency?

3 A Yes, her driver's license.

4 Q And can you tell me what address was given on the driver's
5 license?

6 A 20219 Greydale.

7 Q Similarly, did you find any driver's license for defendant
8 Rashad?

9 A There was a driver's license for Mr. Rashad, I don't recall
10 the address right now.

11 Q Can you tell me if you recall whether it was the Greydale
12 address or some other address?

13 A It was not the Greydale address. Also car registration
14 to her Mazda. Also surveillances. There was letters on
15 the premises. There was information from our SOI.

16 MR. HENRY: Now if you get into that I
17 will ask for the name of that SOI. I object to that because
18 you want to use him when you can and keep him hidden.
19 What is the name of the SOI?

20 MR. HEALY: You are not serious.

21 MR. HENRY: I am serious. Under Robeaera
22 (Phonetic spelling) vs. United States. I didn't mean it.
23 I want the name of th SOI.

24 MR. HEALY: Challenge made as to whether
25 there is probable cause.

1 MR. HENRY: To arrest her.

2 MR. HEALY: That's correct.

3 MR. HENRY: And I'm asking for the name
4 of the SOI since he's now giving this as one of the reasons
5 he is basing it on her ownership of the property. The
6 SOI is the thing if you want to retract that, that's fine.

7 MR. HEALY: The information that he has
8 for the search warrant can certainly go into whether or
9 not there is probable cause to make the arrest.

10 MR. HENRY: The search warrant doesn't
11 authorize the arrest of that individual; and you know the
12 case law as well as I do. The search warrant has to state
13 who may be arrested if you are going to arrest somebody
14 or search.

15 MR. HEALY: That's not what I said. I
16 said the information contained in the search warrant can
17 be used as probable cause for an arrest. I didn't say
18 that the search warrant authorized the arrest.

19 MR. HENRY: I don't want to get into that
20 right now.

21 MR. HEALY: I thought we were already
22 in it. That's the objection you raised.

23 MR. HENRY: Counsel, I'm not going to
24 argue with you.

25

RECROSS-EXAMINATION

BY MR. HENRY:

Q Sir, you have claimed to this Court under oath that the driver's license of Ms. Bufkin, which you have possession of, contains the address of 20219 Greydale, is that right?

A If my memory serves me correct.

Q Suppose you get the license for us. You must have it here?

A I've got it within two minutes from here.

Q Please get it for us. That's the first thing.

MR. HEALY: You take orders from the Court and not from defense counsel.

MR. HENRY: I request he produce the driver's license.

THE COURT: Do you have that available?

THE WITNESS: It's out in the vehicle.

THE COURT: Whatever else you have pertaining to this, just bring it in here so you don't have to keep running out of here.

THE WITNESS: I could run over to the property room and pick up the rest of the items. You want me to do that?

THE COURT: Go ahead.

MR. HEALY: We might as well recess this case for awhile, your Honor, because it will take him awhile to go over to the property room.

1 MR. WENZEL: Thomas Wenzel. I was initially
2 assigned to this case. I was informed by Mr. Healy that
3 he would be taking over this case, and I want the record
4 to reflect I was here and prepared to prosecute.

5 THE COURT: All right.

6 (At 4:15 o'clock p.m., a recess was had.
7 At 4:42 o'clock p.m., Sgt. Arthur McNamara
8 resumed the stand and the following
9 proceedings were had in open court:)

10 REDIRECT EXAMINATION

11 BY MR. HEALY:

12 Q Sgt. McNamara, you want to correct some of the testimony
13 with respect to the license, the driver's license?

14 A Yes. The driver's license comes back to 20192 Schafer.

15 Q It does not come back to the address in question?

16 A No.

17 Q On how many occasions did you see that car -- withdrawn.

18 You testified that you had observed a
19 car which is registered to Defendant Bufkin which also
20 comes back to the Schafer --

21 MR. HENRY: He said the Mazda was to the
22 Greydale address. If he wants to change it we will accept
23 it.

24 MR. HEALY: Well let's find out what it
25 is.

1 THE COURT: I remember him testifying
2 about a Mazda. I don't remember what address he stated.

3 Q (By Mr. Healy) What address did the Mazda come back to?

4 A I did not state an address on the Mazda address. I stated
5 that if my memory serves me correctly the driver's license
6 came back to the Greydale address. I was wrong. The Mazda
7 which I just ran in the computer now I find that it does
8 come out to the Schafer address and the driver's license
9 also comes to the Schafer address.

10 Q How many times did you see the Mazda in the driveway on
11 the Greydale address? Was that frequent or infrequent
12 or what?

13 A Very frequently. Usually I would late at night drive by and
14 the Mazda would be in the driveway practically every night.
15 I was watching the house for approximately two months.

16 MR. HEALY: Okay. That's all I have.

17 RECROSS-EXAMINATION

18 BY MR. HENRY:

19 Q Now I'm going to show you a registration to that car, Michigan
20 registration; and that is to a Mazda, isn't it?

21 A Yes, it is.

22 Q And what particular license is that?

23 A That's 658 UEN.

24 Q And that's on Schafer?

25 A Yes.

1 Q Did you check the ownership of the home? Did you ever
2 bother since you said you were checking on the ownership,
3 did you ever bother checking to see who was the owner of
4 the home of record?

5 A Not of record. I had a utility check done on that house.

6 Q You went to a utility and you asked them who pays the utility
7 bills?

8 A Who was paying the bill.

9 Q And who paid a bill for when?

10 A I did not get all of the particulars. I can get that,
11 though.

12 Q But you didn't get it and you didn't have that in hand
13 to know when it was that she supposed to pay a utility
14 bill?

15 A When you get a utility check, it would be the current named
16 address of the person that is paying the bills there.

17 Q When did you get the utility check?

18 A Approximately two to three weeks ago.

19 Q Two weeks before the --

20 A Before the search warrant, yes.

21 Q Two weeks before the search warrant, and that's the only
22 indication that you had of any ownership of this property?

23 A Correct.

24 Q And you don't know under what circumstances she was paying
25 her bills, do you? The water bill?

1 A All I know it was registered in her name. I don't know.

2 Q You don't know?

3 A No.

4 Q Didn't say she was the owner of the property?

5 A I didn't get that.

6 Q Did you find any papers indicating her ownership?

7 A Inside the house?

8 Q Yes.

9 A Yes, we did.

10 Q What?

11 A I don't know. I don't have them.

12 MR. HENRY: That's all.

13 MR. HEALY: You can step down.

14 THE COURT: Anything else?

15 MR. HEALY: I will put Johnson back on.

16 THE COURT: By all means.

17 J E R R Y J O H N S O N ,

18 was called as a witness by the People, and having been

19 first previously duly sworn by the Court Clerk, was examined

20 and testified further as follows:

21 REDIRECT EXAMINATION

22 BY MR. HEALY:

23 Q Let the record show Officer Johnson has retained the stand.

24 Officer Johnson, did you ask some preliminary
25 questions of Defendant Bufkin such as her name?

1 A Yes.

2 Q Did you ask her where she lived?

3 A I did, yes.

4 Q And what did she tell you when you asked her that kind
5 of preliminary question?

6 A She gave me the address of 10219 Greydale.

7 Q That's an address I have never heard of.

8 THE COURT: Maybe he's got the wrong numbers
9 in place. Maybe he's got the numbers switched around.

10 THE WITNESS: Excuse me. 20219.

11 MR. HEALY: That's all I have, your Honor,
12 on the question of evidence of proof of residency.

13 THE COURT: Do you want to cross-examine,
14 Mr. Henry?

15 CROSS-EXAMINATION

16 BY MR. HENRY:

17 Q The proposed statement that you said you took in the house
18 has on it the place of location as Headquarters, right?

19 A Yes.

20 Q So then did you take the statement that you wanted to get
21 in now at Police Headquarters or did you take it at her
22 home?

23 A I took it at her home.

24 Q But you put Headquarters on the top?

25 A Yes, that's common practice. Just made an error. That's

1 all.

2 Q You went out to the home with a police interrogation form?

3 A Yes, we always do.

4 Q You always do that?

5 A Yes.

6 Q And you began to ask her where she lived and so forth?

7 A Yes, I did.

8 Q Why did you do that?

9 A For the report.

10 Q Your report could have indicated whom you found owned the
11 home and now you want to ask her where she lived?

12 A What are you saying?

13 Q The truth about the matter is you wanted to use that as
14 a means of incriminating her, didn't you, in this respect
15 to drugs found in the basement?

16 A It's just routine questions always asked.

17 Q You knew drugs had been found in the basement?

18 A Yes.

19 Q You knew no drugs were found on her?

20 A That's correct.

21 Q You knew also that she had the baby in her arms when you
22 came in?

23 A That's correct.

24 Q And as a matter of fact you really took her upstairs and
25 then put handcuffs on her?

1 A No, I didn't put handcuffs on her at all.

2 Q Was she upstairs, taken out of the area?

3 A Yes.

4 Q By herself? Isolated?

5 A There were other people up there.

6 Q Who were they?

7 A Different officers.

8 Q Other police officers?

9 A Yes.

10 Q Where did you write up this statement?

11 A In the bedroom.

12 Q On what?

13 A On a dresser.

14 Q On a dresser?

15 A Yes.

16 Q How many other officers were there in this room?

17 A Theywere in and out.

18 Q In and out?

19 A Yes.

20 MR. HENRY: I think that makes the situation
21 clear enough, your Honor. I just renew my objection.

22 THE COURT: Your objection as to the
23 admission of the statement?

24 MR. HENRY: Yes.

25 THE COURT: On the basis they didn't have

1 probable cause to arrest her in the first place?

2 MR. HENRY: That is correct. At the time
3 it was taken she was unlawfully detained and being questioned.
4 I suggest the statement is a product of an unlawful arrest.

5 THE COURT: Well, I have read over these
6 cases that you have cited here, Summers, embedded in the
7 Summers case is the Davenport case which goes into detail
8 about such matters.

9 What is interesting about this situation
10 as well as it relates to the Summers case is that they
11 talk about joint ownership in this case. They said they
12 established it even with the establishment of joint ownership.

13 I will cite. I will quote from the case specifically
14 what I'm talking about. I am reading from the Summers
15 case starting at the bottom of page 584. The citation
16 is 68 Mich Appeals 571. I am starting to read from the
17 bottom of page 548 going over to 585.

18 "In the instant case, none of
19 those additional factors were present.
20 Defendant was known to be the owner and an
21 occupant of the house, and drugs were found
22 in an out-of-the-way place in that house.
23 However, there was no other evidence linking
24 defendant to those drugs at the time of his
25 arrest." They are talking about the Summers

1 case.

2 "We have the same set of facts
3 as described in Davenport. Mere joint occupancy
4 by the defendant with other of a dwelling in
5 which illegal drugs are located. It is
6 certainly as likely that Dwight Calhoun, or
7 one of the other persons on the premises
8 placed those drugs in the basement.

9 Under those circumstances, we
10 must hold that the police officers had no
11 probable cause to arrest defendant for
12 knowingly possessing the drugs found in
13 the basement of his house. The seizure of
14 the heroin involved here cannot be justified
15 as the product of a search incident to arrest.
16 Since the other possible legal basis for the
17 search have also been rejected, we must up hold
18 the decision of the trial judge suppressing the
19 evidence and quashing the information." That
20 is the Summers's matter.

21 I re-read the Davenport case for whatever
22 it is worth. You may or may not remember that case, but
23 at any rate in that case certainly joint if not ownership
24 but occupancy was certainly established against Davenport,
25 and he was charged with some narcotics that were found

1 in the basement in a hamper of some dirty clothes; and
2 defense counsel did object to him being charged with that.
3 And he motioned to suppress and it didn't fly, and he went
4 to trial and he lost and he went to prison. That is to
5 say Davenport. And the Supreme Court reversed that decision
6 and that was Justice Levin's writing of that decision.

7 Just let me read from that Davenport matter
8 because I think it bears directly to the Summers case as
9 to the two cases bear directly on this case to the facts
10 in this case at least.

11 The Court is reading on page 580. This
12 is 68 Mich Appeals 571. I am reading page 580, middle
13 paragraph.

14 "The prosecutor's final claim is that
15 the police had probable cause to arrest defendant
16 for possession of the narcotics found in the
17 basement of the house. If that contention is
18 true, then the police properly searched the
19 person of defendant incident to that arrest.
20 The trial judge, however, ruled that the police
21 lacked probable cause to arrest the defendant.
22 He found that People vs. Davenport, 39 Mich App
23 252 to be controlling here and we agree.

24 In Davenport, police officers went
25 into a house where defendant resided with

1 not be three other persons for the purpose of
2 executing a search warrant for those
3 premises. As the police broke down the
4 door to gain entry, they observed the
5 defendant running upstairs with a small
6 box. The bag of a plant in a bottle containing
7 a label. The police reached an upstairs
8 bathroom in time to retrieve three envelopes
9 and a bit of loose marijuana as the defendant
10 attempted to flush them down the toilet.
11 Marijuana was also found in those envelopes.
12 As search of the whole house was then conducted,
13 and a bag of narcotic paraphernalia and .26 grams
14 of heroin were found in the basement.

15 Both items were at the bottom
16 of a barrel of soiled clothes, and the heroin
17 was contained in a prescription bottle bearing
18 defendant's name for another non-narcotic drug.

19 the Court in Davenport held that
20 there was insufficient evidence to support a
21 jury verdict convicting Davenport of possession
22 of the .26grams of heroin. Judge, now Justice
23 Levin, writing for the Court expressed the
24 reasoning of the panel as follows:"

25 This is on page 581 of People vs Summers

1 matter. I'm quoting:

2 "Davenport cannot be convicted
3 on the theorem that someone must have been
4 in possession of the heroin. Davenport's
5 residence in the house and the presence
6 in the bag of a plastic bottle carrying
7 a label bearing his name were the only
8 evidence connecting him to the heroin
9 found in the brown bottle.

10 Four persons lived in the
11 house. It is not reasonable to infer from
12 the fact that Davenport was one of the
13 occupants that he rather than Phillips or
14 Brown or Green was the person who placed the
15 capsules in the brown bottle. In addition
16 to the plastic bottle labeled with Davenport's
17 name, there were two plastic bottles bearing
18 the name of one of the other residents,
19 Ardis Phillips. There was no evidence that
20 the brown bottle, the bag or the barrel
21 belonged to Davenport.

22 Clearly there were innocent theories
23 unrebutted by any evidence which accord with the
24 facts. It is as likely that Ardis Phillips or
25 anyone else living in the house who would have

1 had equal access to the basement was in
2 possession of the heroin.

3 More than mere association must
4 be shown to establish joint possession. An
5 additional independent factor linking the
6 defendant with the narcotic must be shown.

7 And it's 39 Mich App 252." That's the end of the
8 quote.

9 What we have is the search warrant, as
10 the State's attorney has indicated, which gives the information
11 as it relates to Ms. Bufkin, and the fact a large quantity
12 was found, I suppose what the State's attorney is saying,
13 how could anyone have that amount of narcotics in their
14 house and not really know anything about it or have any
15 understanding that it is there or whatever. But as a matter
16 of fact, we have direct evidence at least to tie the other
17 defendant with it, Mr. Dwight Hassad Rashad, that the attache
18 or briefcase or whatever he had and through on the table,
19 on the dining room table, whatever it was, were keys that
20 unlocked the bottom of that basement room or window or
21 whatever it was where the narcotics were actually found.
22 That's why I was curious.

23 Was there any narcotics found anywhere
24 else in the house other than that place? And the answer
25 was given in the negative.

1 However, simple as it may be, counsel,
2 I am going to dismiss the case against Ms. Bufkin. I am
3 going to bind over Mr. Rashad.

4 As to Mr. Rashad, I find that the crime
5 of Possession With Intent to Deliver Cocaine was committed
6 in the City of Detroit and probable cause to believe that
7 he committed that crime. He will be bound over to stand
8 trial in Recorder's Court.

9 As to the charge against Ms. Bufkin, the
10 matter is dismissed, there being no probable cause for
11 her arrest; and I cited the cases of Davenport and Summers
12 for the basis for doing it.

13 MR. HENRY: Thank you, your Honor.

14 THE CLERK; Arraignment date October 3rd,
15 9:00 o'clock.

16 MR. HEALY: October 3rd?

17 THE CLERK: Yes.

18 MR. HEALY: Your Honor, in respect to
19 the bond there is a \$500,000 ten percent bond on this matter.
20 We are dealing here with seven kilos of cocaine, and I
21 would suggest to you that the conditions have changed from
22 the time that the defendant Rashad came into court today.
23 He's now bound over for trial to a higher court and I
24 would suggest that a \$500,000 ten percent bond is not
25 appropriate for this kind of case and that a \$500,000 cash

1 bond would be appropriate.

2 THE COURT: Did he make the bond?

3 MR. HEALY: He made the bond.

4 THE COURT: Do you want to be heard, Mr.
5 Henry?

6 MR. HENRY: Yes, your Honor. Not only
7 did we have a full hearing on this matter and it was considered
8 by the judge of this court and the bond which he placed
9 on him is \$175,000 and that was after review of all the
10 circumstances of the case involving not only consideration
11 of the search warrant and the other issues that are involved,
12 but also the fact the defendant has never failed to appear
13 and they took all of that into consideration; and it was
14 determined at the second hearing that was the appropriate
15 bond that should be set for him.

16 For counsel to come in and yell he ought
17 to have a million dollar bond, we have been through that
18 before and it was denied by the Court.

19 THE COURT: He has never failed to appear
20 in court?

21 MR. HENRY: Never failed to appear in
22 any court.

23 THE COURT: Do we have any record of any
24 capiases at all at anytime?

25 MR. HEALY: I don't have any capiases.

1 I am not sure I have a very complete record either. If
2 you wait just a second.

3 MR. HENRY: The Bail Information Bureau
4 went through it and made a report on him.

5 MR. HEALY: There are no capiases that
6 appear.

7 THE COURT: He's in court, that's what
8 he is required to do. I will keep the bond the way it
9 is.

10 MR. HENRY: Thank you, your Honor.

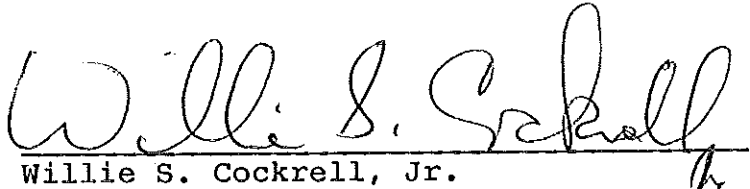
11 THE COURT OFFICER: Court stands adjourned.
12 Please clear the courtroom.

13 (The preliminary examination in the
14 above-entitled cause was concluded at
15 5:02 o'clock p.m.)

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1 STATE OF MICHIGAN)
2) SS
3 COUNTY OF WAYNE)
4

5 I, WILLIE S. COCKRELL, JR., Official Court
6 Reporter of the 36th District Court for the City of Detroit,
7 State of Michigan, do hereby certify that the foregoing pages,
8 1 through 55, inclusive, is comprised of a full, true and
9 correct transcript of the proceedings and testimony taken in
10 the matter of the People of the State of Michigan versus Dwight
11 Hassad Rashad and Sheila Bufkin, Recorder's Court No. 88-11275,
12 at a preliminary examination on September 19, 1988, before the
13 Honorable Rufus Griffin, Jr.
14

15
16 
17 Willie S. Cockrell, Jr.
18

19 Mechanically reproduced copies of this transcript are not
20 certified unless the certificate page bears an original
21 signature.

22 DATED: *October 14, 1988*
23
24
25